

1432.304

Subpart 1432.3—Loan Guarantees for Defense Production

1432.304 Procedures.

1432.304-2 Certificate of eligibility.

Guaranteed loan applications shall be authorized and transmitted to the Federal Reserve Board by the AS/PMB, in accordance with FAR 32.304-2(h).

Subpart 1432.4—Advance Payments for Non-Commercial Items

1432.402 General.

The HCA is authorized to approve determinations and findings, as well as contract terms, for advance payments. The CO shall submit a recommendation for approval or disapproval of the contractor's request to the HCA through the head of the bureau finance office.

1432.407 Interest.

The HCA may authorize advance payments without interest pursuant to FAR 32.407.

Subpart 1432.5—Progress Payments Based on Costs

1432.501 General.

1432.501-2 Unusual progress payments.

The CO shall obtain the advance approval of the HCA, or designee, before providing a progress payment rate higher than the customary rates as defined in FAR 32.501-1. Advance approval to provide progress payment rates higher than the customary rates shall not be delegated lower than the CCO.

1432.502-2 Contract finance office clearance.

The CO shall obtain approval of the bureau finance office prior to taking actions listed in FAR 32.502-2.

Subpart 1432.6—Contract Debts

1432.602 Responsibilities.

344 DM contains policy, standards, and guidelines for collection of debts within DOI. Each bureau and office is

48 CFR Ch. 14 (10-1-10 Edition)

responsible for developing an internal debt collection system and prescribing internal procedures for collection of debts, including debts covered under FAR Subpart 32.6.

1432.610 Compromising debts.

The CO may recommend compromise of contractor actions pursuant to FAR 32.610, but shall consult 344 DM and SOL for further action.

Subpart 1432.9—Prompt Payment

1432.903 Responsibilities.

The CO may modify the timing of payment specified in paragraph (a)(1)(i) and (ii) of the clause FAR 52.232-26, Prompt Payment for Fixed-Price Architect-Engineer Contracts, and/or paragraph (a)(1)(i) and (ii) of the clause at FAR 52.232-27, Prompt Payment for Construction Contracts, as appropriate, to provide for a period shorter than 30 days (but not less than 7 days) for making contract financing payments based on geographical site location, workload, contractor ability to submit a proper request for payment, or other factors. When considering a modification to these FAR standard(s), the CO should alert the finance and program officials involved in the payment process to ensure that such shorter contract payment terms to be specified in the solicitation and resulting contract will be met. A CO determination justifying a shorter payment period must be documented in writing, and incorporated into the solicitation/contract file.

PART 1433—PROTESTS, DISPUTES, AND APPEALS

Subpart 1433.1—Protests

Sec.

1433.102 General.

1433.103 Protests to the agency.

1433.104 Protests to GAO.

1433.106 Solicitation provisions and contract clauses.

Subpart 1433.2—Disputes and Appeals

1433.203 Applicability.

1433.209 Suspected fraudulent claims.

1433.211 Contracting officer's decision.

1433.213 Obligation to continue performance.

Department of the Interior

1433.104

1433.214 Alternative dispute resolution (ADR).

1433.215 Contract clauses.

AUTHORITY: Sec. 205(c), 63 Stat. 390, 40 U.S.C. 486(c); and 5 U.S.C. 301.

SOURCE: 75 FR 19829, Apr. 15, 2010, unless otherwise noted.

Subpart 1433.1—Protests

1433.102 General.

For protests filed with GAO, the SOL shall be responsible for handling all bid protest matters. Any communications to GAO shall be coordinated with the regional and/or field solicitor and the Assistant Solicitor, Acquisitions and Intellectual Property.

1433.103 Protests to the agency.

For protests filed with the agency, the CO shall coordinate with the regional and/or field solicitor and the Assistant Solicitor, Acquisitions and Intellectual Property, prior to making the protest decision and before suspending or terminating a contract award as a result of the protest. When a protest is denied by the CO, the decision issued shall advise the protester that the decision may be appealed to the GAO. All protest decisions must also contain a notice that appeals to GAO must include a copy of the CO's protest decision.

1433.104 Protests to GAO.

(a) *General procedure.* (1) A protester shall furnish a copy of its complete protest simultaneously to the CO and the Assistant Solicitor, Acquisitions and Intellectual Property. Upon being telephonically advised by the GAO of the receipt of a protest, the SOL shall inform the appropriate contracting activity which shall immediately notify the CO. For protests concerning Federal Information Processing (FIP) acquisitions, the SOL shall also inform the Director, Office of Information Resources Management (PIR), who, in turn, shall notify the appropriate bureau Information Resources Management contact and GSA official. The CO shall prepare the protest report as required by FAR 33.104(a)(3).

(2) The SOL will furnish promptly GAO's written notice of the protest to the cognizant contracting activity

which, in turn, shall promptly transmit copies to the CO. The CO shall begin notification as prescribed in FAR 33.104(a)(2). The notification letters shall contain a specified period of time for submission of comments and include instructions that any comments submitted to the GAO should also be submitted simultaneously to the CO and the Assistant Solicitor, Acquisitions and Intellectual Property. Copies of the CO's notification letters shall be sent concurrently to the Assistant Solicitor, Acquisitions and Intellectual Property.

(3)(i) The contracting activity shall have no more than 15 working days from the date of telephonic notification by the SOL to deliver the protest report to the Assistant Solicitor, Acquisitions and Intellectual Property. For reports involving use of the 10 working day express option, the SOL shall establish the report delivery date after consultation with the contracting activity.

(ii) If required, the SOL shall make the request for an extension in the report due date.

(iii) In addition to the requirements of FAR 33.104(a)(3), the report shall be appropriately titled and dated; shall cite the GAO file number; and shall be signed by the CO. Reports shall be prepared with the assistance of the local attorney-advisor of the SOL. A statement shall be included giving an estimate of the length of time an award may be delayed without significant expense or difficulty in performance. If appropriate, the report shall contain a statement regarding any urgency for the acquisition and the extent to which a delay in award may result in significant performance difficulties or additional expense to the Government. The contracting activity shall submit the CO's report to the Assistant Solicitor, Acquisitions and Intellectual Property, who will then submit it to GAO and provide a copy to each interested party who responded to the notification pursuant to FAR 33.104(a)(2).

(b) *Protests before award.* (1) The finding to award, notwithstanding protest, shall be written by the CO, reviewed by the SOL, and approved by the HCA. A copy of the approved written finding shall be placed in the contract file.

(2) The SOL shall be responsible for notifying GAO of the finding to award notwithstanding protest.

(c) *Protests after award.* (1) The CO shall notify the SOL prior to suspending or terminating the awarded contract.

(2) The written finding to authorize continued contract performance, notwithstanding protest, shall be written by the CO, reviewed by the SOL, and approved by the HCA.

(3) The SOL shall be responsible for notifying GAO of the finding to continue contract performance not withstanding protest.

(d) *Notice to GAO.* The CO shall prepare the report required by FAR 33.104(g), and coordinate it with the Assistant Solicitor, Acquisitions and Intellectual Property, and the Director, PAM, prior to HCA signature (signature level not redelegable). For protests regarding FIP acquisitions, the CO shall also coordinate the report with the Director, PIR. After signature, the report shall be forwarded to the Assistant Solicitor for Acquisitions and Intellectual Property for transmission to GAO.

1433.106 Solicitation provisions and contract clauses.

The provision at FAR 52.233-2, Service of Protest, as prescribed in FAR 33.106, shall be modified in accordance with the instructions in DIAR 1452.233-2.

Subpart 1433.2—Disputes and Appeals

1433.203 Applicability.

(a) The CO shall prepare any determination that application of the Contract Disputes Act to contracts with a foreign or international organization would not be in the public interest and

forward it to the HCA for review. The HCA shall be responsible for submitting the determination through the Director, PAM, to the AS/PMB for approval.

(b) The CBCA is authorized by the Contract Disputes Act or by the Secretary to consider and determine an appeal from a decision of a CO on a claim arising under or relating to a contract made by DOI.

1433.209 Suspected fraudulent claims.

The CO shall refer all matters relating to suspected fraudulent claims by a contractor or individual to the OIG for further action or investigation.

1433.211 Contracting officer's decision.

The CO's decision shall reference the Civilian Board of Contract Appeals, 6th Floor, 1800 M Street, NW., Washington, DC 20036, and its rules of procedure at <http://www.cbca.gsa.gov>.

1433.213 Obligation to continue performance.

If the CO considers financing continued contractor performance to be in the best interest of the Government, the CO shall prepare and forward a determination to the HCA for approval.

1433.214 Alternative dispute resolution (ADR).

DOI strongly encourages the use of ADR in the resolution of disputes in lieu of litigation or adjudication. Efforts shall be made to resolve disputes in an expeditious and financially responsible manner.

1433.215 Contract clauses.

The Disputes clause contained in FAR 52.233-1 shall be used with its Alternate I in all solicitations and contracts.